IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 5324 of 2001
Date of Decision. October 10 ,2007.

Didar Singh .....Petitioner(s)

Versus

Sinder Kaur and others .....Respondent(s)

Present Mr. S. K. Garg Narwana, Advocate
for the petitioner.

Mr. Vishal Gupta, Advocate
for the respondents.

Hemant Gupta , J(Oral)

The challenge in the present revision petition is to the order passed by the learned trial court on 17.8.2001 whereby the plaintiff-respondent was permitted to amend tiuhe plaint so as to allow the Court to decide the real controversy between the parties.

The plaintiff-respondent filed a suit for possession of agricultural land measuring 28 kanals 8 marlas on the basis of purchase of the land vide registered sale-deed dated 10.2.1977 from one Gopi Chand. It was claimed out that defendant no.2 Amrik Singh was tenant under Gopi Chand and that by virtue of sale, said Amrik Singh became tenant under the plaintiff. But defendant no.1 filed a suit for possession against defendant no.2 Amrik Singh without impleading the plaintiff as a party and in execution of the decree passed in such suit, defendant no.1 has taken possession of the suit land from defendant no.2. Therefore, plaintiff as owner is entitled to the possession of the suit land.

By virtue of the amendment, the plaintiff wants to plead that one Wazir Chand father of Gopi Chand was owner of the suit land

and that there was an award in favour of Gopi Chand in the year 1937 which was made Rule of the Court. Said matter was settled by this Court whereby Lal Chand and Gopi Chand became owner of the entire land. It is alleged that Lal Chand was a Judicial Officer and was managing wrong entries in the revenue record. It is alleged that even if any sale-deed has been executed by Lal Chand in favour of defendant no.1, the same is void because the land has already been sold by Gopi Chand, a co-sharer of the said Lal Chand.

The petitioner resisted the said application for amendment on the ground that plaintiff has now seeking a declaration challenging sale-deed dated 29.1.1988 executed in favour of predecessor of vendors of defendant no.1 and thus the amendment is beyond the period of limitation to challenge the said sale-deed.

Learned trial Court had allowed the application for amendment of the plaint as such the amendment to enable the Court in deciding the real controversy between the parties and that proposed amendment shall not change the nature of the suit.

By virtue of the amendment, the plaintiff wants to plead the facts in respect of title of Gopi Chand over the suit land. By amendment, the question how defendant no.1 became owner is also sought to be introduced. The said facts are just and necessary for the proper adjudication of the controversy between the parties. The question whether the sale-deed or any other document is being challenged is not a ground for declining the amendment. After the amendment, the petitioner has a right to file written statement in which he has liberty to raise all pleas as may be available to him under the law but the amendment cannot be declined when

the plaintiff has sought possession on the basis of title.

Consequently, I do not find any illegality or irregularity in the order passed by the learned trial Court which may warrant interference in the exercise of jurisdiction and the same is therefore, dismissed.

October 10, 2007 **(Hemant Gupta)**
mamta **Judge**